IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

THURSDAY, THE 22ND MARCH 2007 / 1ST CHAITHRA 1929

Crl.MC.No. 833 of 2007()

PETITIONER: PETITIONER/REVISION PETITIONER1

PHILIP THOMAS,S/O.THOMAS PHILIP,
VARAMPATTU,TOWER VIEW LANE,NALANCHIRA,
THIRUVANANTHAPRUAM-15.

BY ADV. SRI.NAGARAJ NARAYANAN
SRI.SAIJO HASSAN
SRI.A.S.SABU

RESPONDENTS: RESPONDENTS/RESPONDENTS

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1. BANK OF BARODA,FORT BRANCH,
THIRUVANANTHAPRUAM,REPRESENTED BY ITS SENIOR
BRANCH MANAGER.

2. STATE OF KERALA REPRESETNED BY THE
PUBLIC PROSECUTOR,HIGH COURT OF KERALA,
ERNAKULAM.

BY P.P. SRI.S.U. NAZAR.

THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION ON 22/03/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

R. BASANT, J.

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Crl.M.C.No. 833 of 2007

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Dated this the 22nd day of March, 2007

O R D E R

The petitioner has been found guilty, convicted and sentenced in a prosecution under Section 138 of the N.I. Act. He was acquitted by the trial court. But in the appeal against acquittal, this court had found the petitioner guilty and had convicted and sentenced him to undergo imprisonment till rising of court. He is further directed to pay an amount of Rs.1,38,598/- as compensation and in default to undergo S.I. for a period of six months. He was directed to appear before the learned Magistrate on 11.9.2006.

2. The petitioner did not appear before the learned Magistrate as directed. According to him, he has by now paid the entire amount of compensation to the complainant. He now wants the judgment passed in the appeal to be modified. I find no merit in this plea at all. The petitioner will have to appear before the learned Magistrate and undergo the substantive sentence of imprisonment till rising of court. He will have to satisfy the learned Magistrate that the direction to pay the compensation had been complied with. He can appear along

with the complainant and file necessary joint application to induce the necessary satisfaction in the mind of the court. If such payment has been made, as held in **Girish** v. **Muthoot Capital Services (P) Ltd.** (2007 (1) KLT 16), there can be no question of default sentence being imposed on him, notwithstanding the fact that he has failed to appear before the learned Magistrate on 11.9.2006 as directed by this Court.

3. This Crl.M.C. is found to be absolutely unnecessary and it is accordingly dismissed with the above observations.

(R. BASANT)
Judge

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